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DEPARTMENT OF COMMERCE

International Trade Administration

C-533-874

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) determines that countervailable subsidies are being provided to producers and exporters of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India. The period of investigation is April 1, 2016, through March 31, 2017.

DATE: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ryan Mullen or Carrie Bethea, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone 202.482.5260 or 202.482.1491, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2017, the Department published the *Preliminary Determination* in the *Federal Register*.¹

¹ See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Affirmative Countervailing Duty Determination, 82 FR 44558 (September 25, 2017) and accompanying Preliminary Decision Memorandum (*Preliminary Determination*).

A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the accompanying Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document, and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope Comments

In the Department's Preliminary Scope Decision Memorandum, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope) in scope case briefs or other written comments on scope issues.³ Certain interested parties commented on the scope of the investigation as it appeared in the Preliminary Scope Decision Memorandum. For a summary of the product coverage comments and rebuttal responses submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.⁴ *See* the scope in Appendix I to this notice.

Scope of the Investigation

² *See* Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

³ *See* Memorandum, "Scope Comments Decision Memorandum for the Preliminary Determinations," dated November 15, 2017 (Preliminary Scope Decision Memorandum).

⁴ *See* Memorandum, "Scope Comments Decision Memorandum for the Final Determinations," dated December 4, 2017 (Final Scope Decision Memorandum).

The products covered by this investigation are cold-drawn mechanical tubing from India. For a complete description of the scope of this investigation, *see* “Scope of the Investigation,” in Appendix I of this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs filed by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues parties raised and to which we responded in the Issues and Decisions Memorandum, is attached to this notice at Appendix II.

Verification

The Department conducted verification of the questionnaire responses submitted by the Government of India, Goodluck India Limited (Goodluck), and Tube Investments of India Limited (Tube Investments) between October 23, and October 31, 2017.

Use of Adverse Facts Available

If necessary information is not available on the record, or an interested party withholds information, fails to provide requested information in a timely manner, significantly impedes a proceeding by not providing information, or information provided cannot be verified, the Department will apply facts available, pursuant to section 776(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act). For purposes of this final determination, the Department relied, in part, on facts available and, because certain respondents did not cooperate by not acting to the best of their ability to respond to the Department’s requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.⁵ A full discussion of our decision to rely on adverse facts available is presented in the “Use of Facts Otherwise Available and Adverse Inferences” section of the Issues and Decision Memorandum.

⁵ *See* sections 776(a) and (b) of the Act.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties and the minor corrections presented, as well as additional items discovered at verification, we made certain changes to the respondents' subsidy rate calculations set forth in the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum and the Final Calculation Memoranda.⁶

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each exporter/producer of the subject merchandise individually investigated, *i.e.*, Goodluck and Tube Investments. In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the "all-others" rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated, as well as rates based entirely on facts otherwise available. Where the rates for the individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an "all-others" rate using "any reasonable method."

⁶ See Issues and Decision Memorandum; see also Memorandum, "Final Determination Calculation for Goodluck India Limited," dated December 4, 2017 (Goodluck Final Calculation Memorandum) and Memorandum, "Final Determination Calculation for Tube Investments of India Limited," dated December 4, 2017 (Tube Investments Final Calculation Memorandum) (collectively, Final Calculation Memoranda).

In this investigation, the Department calculated individual countervailable subsidy rates for Goodluck and Tube Investments that are not zero, *de minimis*, or based entirely on facts otherwise available. The Department calculated the all-others rate using a weighted-average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.

The final subsidy rates are as follows:

Company	Subsidy Rate
Goodluck India Limited	8.02
Tube Investments of India Limited	42.60
All-Others	22.41

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of any entries of merchandise under consideration from India that were entered, or withdrawn from warehouse, for consumption on or after September 25, 2017, which is the publication date in the *Federal Register* of the *Preliminary Determination*.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order and will require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this

proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

U.S. International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Acting Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties such to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or, alternatively, conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

Notification to Interested Parties

This determination is published pursuant to section 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: December 4, 2017

Appendix I

Scope of the Investigation

The scope of this investigation covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.*, electric resistance welded, continuous welded, etc.) or seamless (*e.g.*, pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

- (1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A-512, ASTM A-513 Type 3 (ASME SA513 Type 3), ASTM A-513 Type 4 (ASME SA513 Type 4), ASTM A-513 Type 5 (ASME SA513 Type 5), ASTM A-513 Type 6 (ASME SA513 Type 6), ASTM A-519 (cold-finished);
- (2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;
- (3) Aerospace Material Specification (AMS) AMS T-6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;
- (4) United States Military Standards (MIL) MIL-T-5066 and MIL-T-6736;

(5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

(a) German Institute for Standardization (DIN) specifications DIN 2391-2, DIN 2393-2, DIN 2394-2);

(b) European Standards (EN) EN 10305-1, EN 10305-2, EN 10305-4, EN 10305-6 and European national variations on those standards (*e.g.*, British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of these investigations when it meets the physical description set forth above.

Steel products included in the scope of these investigations are products in which: (1) iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestructive testing, deburring or chamfering, remains within the scope of these investigations.

All products that meet the written physical description are within the scope of these investigations unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the investigations even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of these investigations:

(1) cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A-53;
- ASTM A-106;
- ASTM A-179 (ASME SA 179);
- ASTM A-192 (ASME SA 192);
- ASTM A-209 (ASME SA 209);
- ASTM A-210 (ASME SA 210);
- ASTM A-213 (ASME SA 213);
- ASTM A-334 (ASME SA 334);
- ASTM A-423 (ASME SA 423);
- ASTM A-498;
- ASTM A-496 (ASME SA 496);
- ASTM A-199;
- ASTM A-500;
- ASTM A-556;
- ASTM A-565;
- API 5L; and
- API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of these investigations.

The products subject to the investigations are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigations is dispositive.

Appendix II

List of Topics Discussed in the Final Decision Memo

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- VIII. Use of Facts Otherwise Available and Adverse Inferences
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 - Comment 2: Whether AAP and DDB Programs are Countervailable
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 - Comment 5: Whether the Benefit for MEIS is Determined at the Date of Issuance
 - Comment 6: Whether the Deduction under 32-AC of the Income Tax Act is Countervailable
 - Comment 7: The Department's Determination Regarding the Entry Tax Exemption for the Iron and Steel Industry in Uttar Pradesh
 - Comment 8: The Denominator Used to Calculate Goodluck's DDB Exemption
 - Comment 9: The Inclusion of Tube Investments' Non-Subject Merchandise in the Benefit Calculation for DDB
 - Comment 10: The Department's Calculation Methodology for Tube Investments' EPCGS Benefits
 - Comment 11: The Department's Application of AFA for Certain Unreported Subsidies Discovered at Tube Investments' Verification
 - Comment 12: The Department's Calculation Methodology for the Income Tax for Research and Development Program
 - Comment 13: The Department's Decision to Countervail Benefits for Tube Investments' Non-Subject Merchandise
 - Comment 14: The Revised Sales and Subsidy Data Presented as Minor Corrections
- XI. Conclusion

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